

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CITY OF COLUMBUS, OHIO	:	
	:	Case No. 2:23-cv-00654-SDM-EPD
Plaintiff,	:	
	:	
v.	:	JUDGE SARAH D. MORRISON
	:	
KIA AMERICA, INC., and	:	MAGISTRATE ELIZABETH PRESTON
HYUNDAI MOTOR AMERICA	:	DEAVERS
	:	
Defendants.	:	

**DEFENDANTS’ UNOPPOSED MOTION TO CONTINUE ALL DEADLINES PENDING
JPML DECISION ON TRANSFER TO MDL**

Defendants Kia America, Inc. and Hyundai Motor America (collectively, “Defendants”), pursuant to Fed. R. Civ. P. 16(b)(4), hereby respectfully move this Court for an Order continuing the pending deadlines in the above-captioned case. Pursuant to Local Rule 7.3, Defendants contacted Plaintiff and Plaintiff indicated that it does not oppose this Motion.

By way of background, on February 15, 2023, the City of Columbus (the “Plaintiff” or the “City”) filed the above-captioned action against Defendants (the “Complaint”). The Plaintiff then filed, on February 22, 2023, a Notice of Tag-Along Action with the Judicial Panel on Multidistrict Litigation (“JPML”), which had previously coordinated class actions brought on behalf of owners and lessees of certain Hyundai and Kia vehicles without engine immobilizers before the Honorable James V. Selna in the United States District Court for the Central District of California (the “MDL”). On February 24, 2023, the JPML issued a Conditional Transfer Order that would have transferred this action to the MDL.¹ Defendants filed a Motion to Vacate the Conditional Transfer Order on March 20, 2023 (the “Motion to Vacate”). Plaintiff filed its response to the Motion to

¹ MDL No. 3052, Docket No. 136.

Vacate on April 10, 2023 (the “Response to the Motion to Vacate”) and Defendant’s Reply to the Plaintiff’s Response to the Motion to Vacate is due on April 17, 2023.

Defendants deny Plaintiff’s claims (and the claims of the MDL plaintiffs) and intend to file a Motion to Dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12 and/or other challenge on the grounds that the Complaint does not state a cause of action as a matter of Ohio law. The deadline for Defendants to respond to the Complaint is April 17, 2023. The default deadlines for holding a Rule 26(f) conference, and for initial disclosures and a discovery plan, are April 11, 2023 and April 25, 2023, respectively. Because the briefing on the Motion to Vacate will not be complete until April 17, 2023, the JPML will not decide whether to transfer the Complaint to the MDL until after the Motion to Dismiss the Complaint is due in the above-captioned case.

THEREFORE, the Defendants request that: (1) the Motion to Dismiss, Rule 26(f) conference, and initial disclosures and discovery plan dates described above be continued pending the JPML’s decision; (2) if the Motion to Vacate is granted and this action remains before this Court, Defendants’ deadline to respond to the Complaint shall be extended to 30 days from the date the Motion to Vacate is granted, and that within 30 days from the date that the Motion to Vacate is granted, the parties will jointly propose a schedule for holding a Rule 26(f) conference, initial disclosures, and a discovery plan; and (3) if the Motion to Vacate is denied, and this action is transferred to the MDL, the Defendants’ time to respond to the Complaint, as well as other initial deadlines, should be set by an anticipated scheduling order in the transferee court. A proposed Order is also being submitted in accordance with the Local Rules.

Respectfully submitted,

/s/ James E. Arnold

James E. Arnold, Trial Counsel (0037712)

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 11, 2023, a true and accurate copy of the foregoing was filed with the Court using the Clerk of Court's electronic filing system, which by its operation will send notice of this filing to all parties that have entered an appearance in this matter.

/s/ James E. Arnold

James E. Arnold